

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

**FERMIN MENDOZA;
FRENCHMAN HILL
APARTMENTS RESIDENT
ASSOCIATION.**

Plaintiffs,

V.

FRENCHMAN HILL
APARTMENTS LIMITED
PARTNERSHIP; CAMBRIDGE
MANAGEMENT, INC.; HOUSING
AUTHORITY OF GRANT
COUNTY; JOHN POLING, in his
official capacity as Executive
Director of the Housing Authority of
Grant County; WASHINGTON
STATE HOUSING FINANCE
COMMISSION; KIM HERMAN in
his official capacity as Executive
Director of the Washington State
Housing Finance Commission,

Defendants.

Before the Court is Plaintiffs' Objection to *Sua Sponte* Entry of Summary Judgment for Defendants (Ct. Rec. 62). The Plaintiffs' Objections were filed in response to the Court's Order, dated January 20, 2005, Granting in Part and Denying in Part Plaintiffs' Motion for Summary Judgment. In the Objections, Plaintiffs move the Court to reconsider its ruling that the good cause provision contained in 26 U.S.C. § 42(h)(6) does not create a right enforceable under 42 U.S.C. § 1983. The Plaintiffs urge the Court to consider and apply the test outlined

**ORDER GRANTING, SUA SPONTE, PARTIAL SUMMARY JUDGMENT
IN FAVOR OF DEFENDANTS *1**

1 by the Supreme Court in *Blessing v. Freestone*, 520 U.S. 329 (1997), which was
2 cited by the Court in *Gonzaga University v. Doe*, 536 U.S. 273, 282 (2002). The
3 Court has reexamined the record and the case law cited by the Plaintiffs, and finds
4 no compelling reason to reconsider its earlier rulings.

Having reviewed the record, heard from counsel, and been fully advised in
this matter, **IT IS HEREBY ORDERED** that:

7 1. The Court, *sua sponte*, **GRANTS** entry of partial summary judgment in
8 favor of the Defendants on the issue of whether Plaintiffs have an enforceable right
9 under 42 U.S.C. § 1983 to a clause in an extended low-income housing
10 commitment containing certain eviction and termination protections described in
11 26 U.S.C. § 42(h)(6)(B).

12 2. The Court sets a status conference on **Wednesday, March 2, 2005**, at
13 **2:30 p.m.**, to discuss how the parties wish to proceed on the Plaintiffs' remaining
14 Retaliatory Eviction claim, under RCW 59.18.240. At the time set for the hearing,
15 the parties shall call the Court's conference line at (509) 353-3180.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
17 Order and forward copies to counsel.

18 || DATED this 15th day of February, 2005.

s/ ROBERT H. WHALEY
UNITED STATES DISTRICT JUDGE

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**ORDER GRANTING, SUA SPONTE, PARTIAL SUMMARY JUDGMENT
IN FAVOR OF DEFENDANTS * 2**